

State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

708I0539

HOUSE BILL NO. 1267

Introduced by: Representatives Buckingham, Haverly, Heineman, Hennies, and Teupel and
Senators Napoli, Ham, and McCracken

1 FOR AN ACT ENTITLED, An Act to revise the distribution of certain revenues outside the
2 state aid to education formula.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 13-13 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 The school district outside revenue fund is hereby created in the state treasury, and the
7 Department of Education and Cultural Affairs shall distribute any money appropriated to the
8 fund. The moneys deposited in the fund shall be invested by the state investment council
9 pursuant to chapter 4-5, and all interest and profits derived from such investment shall be
10 retained in the fund.

11 Section 2. That chapter 13-13 be amended by adding thereto a NEW SECTION to read as
12 follows:

13 The secretary of the Department of Education and Cultural Affairs shall distribute money
14 in the school district outside revenue fund among the school districts on the basis provided in
15 section 3 of this Act. The secretary shall pay each school district its share of the money in the
16 school district outside other revenue fund in nine monthly installments beginning in October



of each year.

Section 3. That chapter 13-13 be amended by adding thereto a NEW SECTION to read as follows:

The secretary shall determine the amount of all fines deposited in the county outside school district fund for the previous year in conformity with S.D. Const., Art. VIII, § 3 as of July first. The amount of all such fines shall be added to the amount deposited in the school district outside revenue fund as of September first. The secretary shall compute each school district's share of this total amount based upon the school district's percent of the statewide total average daily membership as defined in subdivision 13-13-10.1(1) for the previous school year. The secretary shall then subtract the amount of fines deposited in each county outside school district fund and then distribute an appropriate amount from the school district outside revenue fund to each county outside school district fund. The secretary shall distribute the money pursuant to section 2 of this Act.

Section 4. That § 13-13-4 be amended to read as follows:

13-13-4. The county ~~general~~ outside school district fund ~~to be apportioned pursuant to § 13-13-5 shall consist of the net proceeds of all~~ is hereby created in the county treasury of each county. All fines for violation of state laws and any tax so designated in Title 10 funds received from school district outside revenue fund shall be deposited in the county outside school district fund. No later than August first of each year, each county treasurer shall submit a report to the secretary of Education and Cultural Affairs providing the amount of money in the fund.

Section 5. That § 13-13-5 be amended to read as follows:

13-13-5. The county treasurer shall on or before the fifth day of January and July furnish the county auditor with a statement of all money in the county treasury belonging to the county ~~general school~~ outside school district fund and. The county treasurer shall pay the money, upon the order of the auditor to the public school districts having land area within the county in

1 proportion to the average daily membership of children residing in the school districts as
2 certified by the ~~Division of Education Services and Resources~~ Department of Education and
3 Cultural Affairs.

4 Section 6. That § 13-13-73.1 be amended to read as follows:

5 13-13-73.1. The Department of Revenue shall ~~exclude~~ include the real property valuation
6 of manufactured homes, considered as real estate pursuant to § 10-4-2.4, and manufactured
7 homes, converted to real estate after July 1, 1999, when computing local effort pursuant to
8 §§ 13-13-10.1 and 13-37-35.1 for the purpose of the state aid to education formula. The county
9 auditor shall also ~~exclude~~ include such real estate value when computing the tax levy for school
10 purposes. ~~However, such manufactured homes shall continue to be subject to each tax levy. The~~
11 Legislature shall make an adjustment in the relationship between statewide local effort as a
12 percentage of statewide local need pursuant to §§ 13-13-71 to 13-13-72.1, inclusive, to account
13 for the change of moving manufactured homes from outside the state aid to education formula
14 to inside the formula. The inclusion of valuation of manufactured homes in the local effort shall
15 be accomplished without maintaining the relationship required by § 13-13-72.

16 Section 7. That § 10-33-21 be amended to read as follows:

17 10-33-21. All persons, corporations, cooperatives, and associations engaged in furnishing
18 and providing telephone and exchange service comprising rental and toll service by means of
19 wired circuits and otherwise and whose annual gross receipts are less than fifty million dollars
20 shall be taxed on the basis of gross receipts, according to one of the two following schedules.
21 ~~Whichever schedule provides the lesser percentage of tax shall be applied by the~~ The
22 Department of Revenue shall apply whichever schedule provides the lesser percentage of tax:

23 SCHEDULE A

24	Percentage of
25 Average Number of Customers	Tax on

1	Per Mile of Line (Density)	Gross Revenue
2	Not more than 1	2
3	More than 1, but not more than 2	3
4	More than 2	4

5 SCHEDULE B

6		Percentage of
7		Tax on
8	Gross Annual Revenue	Gross Revenue
9	Not more than \$ 15,000	2
10	More than \$15,000, but not more than 20,000	3
11	More than \$20,000, but not more than 50,000,000	4

12 ~~However, no telephone company operating in this state shall be taxed less than an amount~~
13 ~~equal to fifty cents per year per telephone serviced. Further, each~~ Each telephone company that
14 was taxed in the five percent tax category for the calendar year 2001 shall pay an amount of tax
15 to ~~each school district~~ the Department of Revenue of not less than the ~~tax received by such~~
16 ~~school district~~ all the taxes paid by such telephone company pursuant to this chapter in 2002
17 for the years 2003 and 2004; and each year thereafter, the tax paid shall be as provided in
18 SCHEDULE A or SCHEDULE B of this section.

19 Section 8. That § 10-33-24 be amended to read as follows:

20 10-33-24. ~~It shall be the duty of the~~ The secretary of revenue ~~to~~ shall compute and
21 determine the amount of tax to be paid by ~~such~~ each company as provided in § 10-33-21 ~~and~~
22 ~~he shall on or before July first following certify to the county auditor of each county in the state~~
23 ~~in which such company operates the amount of the tax to be paid in such county on the basis~~
24 ~~of the gross receipts received by such company from its operations in such county and shall~~
25 ~~further certify to the county auditor the amount to which each school district shall be entitled~~
26 ~~in each such county on the basis of the gross receipts received by such company in each school~~

1 ~~district. The county auditor shall extend such tax on his books and certify the same to the~~
2 ~~county treasurer and certify the amount to the company by July first.~~

3 Section 9. That § 10-33-25 be amended to read as follows:

4 10-33-25. The tax levied in § 10-33-21 ~~shall become due and be~~ is due and payable to the
5 ~~county treasurer of each county in which such company operates and~~ Department of Revenue
6 as certified by the secretary of revenue on September first of each year following the filing of
7 the report of ~~such~~ gross receipts. The Department of Revenue shall deposit the taxes paid in the
8 school district outside revenue fund.

9 Section 10. That § 10-33-28 be repealed.

10 ~~—10-33-28. The county treasurer shall allocate and transmit the taxes imposed by § 10-33-21~~
11 ~~and collected from each such company to the school treasurers of each school district in which~~
12 ~~such company operates on the basis of the gross receipts received by such company from its~~
13 ~~operations within each such school district within the county.~~

14 Section 11. That § 10-36-7 be amended to read as follows:

15 10-36-7. The secretary of revenue shall compute ~~and determine~~ the amount of tax to be paid
16 by ~~such~~ each company as provided in § 10-36-6 ~~and shall on or before July first following~~
17 ~~certify to the county auditor of each county in the state in which such company operates the~~
18 ~~amount of the tax to be paid in such county on the basis of the gross receipts received by such~~
19 ~~company from its operations in such county and shall further certify to the county auditor the~~
20 ~~amount to which each school district shall be entitled in each such county on the basis of the~~
21 ~~gross receipts received by such company in each school district. The county auditor shall extend~~
22 ~~such tax on his books and certify the same to the county treasurer and shall certify the amount~~
23 to the company by July first.

24 Section 12. That § 10-36-8 be amended to read as follows:

25 10-36-8. The tax levied by § 10-36-6 ~~shall become due and be~~ is due and payable to the

1 ~~county treasurer of each county in which such company operates and~~ Department of Revenue
2 as certified by the secretary of revenue on September first of each year following the filing of
3 the report of ~~such~~ gross receipts. The Department of Revenue shall deposit the taxes paid in the
4 school district outside fund.

5 Section 13. That § 10-36-10 be repealed.

6 ~~10-36-10. The county treasurer shall allocate and transmit the taxes collected from each~~
7 ~~such company to the school treasurers of each school district in which such company operates~~
8 ~~on the basis of the gross receipts received by such company from its operations within each~~
9 ~~such school district within the county.~~

10 Section 14. That § 10-43-77 be amended to read as follows:

11 10-43-77. The county treasurer upon receipt of ~~such funds~~ the share of the tax pursuant to
12 this chapter shall apportion and distribute the funds between the taxing subdivisions, including
13 the county but not including the school districts, in the same proportion as the average of
14 personal property taxes assessed in each taxing subdivision, including the county and the school
15 districts, for calendar years 1972, 1973, 1974, 1975, and 1976 were distributed as determined
16 and certified by the secretary of revenue.

17 The county treasurer shall certify to the secretary of revenue the proportion of personal
18 property taxes assessed that is assigned to the school districts under the provisions of this
19 section. For school districts operating during the years 1972 to 1976, inclusive, that reorganize,
20 ~~the funds shall be apportioned and distributed~~ county treasurer shall certify to the secretary of
21 revenue the proportion of personal property taxes assessed that is assigned to such school
22 districts under the provisions of this section to the successor districts. The proportion assigned
23 shall be determined in the same manner and proportion as ~~they were distributed~~ prior to
24 reorganization. The secretary of revenue shall determine the amount that would normally be
25 apportioned and distributed to the school districts and deposit such amount in the school district

1 outside revenue fund.

2 Section 15. That § 10-6-22 be amended to read as follows:

3 10-6-22. The director of equalization shall ~~forthwith~~ notify the state's attorney of any ~~such~~
4 delinquency or offense as described by § 10-6-21 and ~~he~~ the state's attorney shall prosecute
5 ~~such~~ the offender to final judgment and execution, ~~and such fine when.~~ If any fine is collected,
6 the fine shall be ~~paid into the county treasury for the use of the public schools~~ deposited in the
7 county outside school district fund.

8 Section 16. That § 23A-27-25 be amended to read as follows:

9 23A-27-25. ~~All~~ The county treasurer shall deposit all fines and pecuniary penalties, other
10 than forfeitures provided for in § 23A-43-23, costs as provided in §§ 23-3-52, 23A-27-26, and
11 23A-27-27, and restitution and civil penalties assessed under the state's environmental laws; for
12 the violation of any state law, ~~when collected, shall be paid into the treasury of the proper~~
13 ~~county, the net proceeds of which shall be applied and used each year for the benefit of the~~
14 ~~public schools of this state~~ in the county outside school district fund.

15 Section 17. That § 10-59-1 be amended to read as follows:

16 10-59-1. The provisions of this chapter apply to any taxes or fees or persons subject to taxes
17 or fees imposed by chapters 10-33, 10-36, 10-39, 10-39A, 10-39B, 10-43, 10-45, 10-45D,
18 10-46, 10-46A, 10-46B, 10-46C, 10-47B, 10-52, 10-52A, 32-3, 32-3A, 32-5, 32-5B, 32-6B,
19 32-9, 32-10, and 34A-13 and §§ 22-25-48, 49-31-51, 50-4-13 to 50-4-17, inclusive, and the
20 provisions of chapter 10-45B.

21 Section 18. This Act is effective on January 1, 2004.